

AARON D. FORD
Attorney General
JANET L. MERRILL (Bar No. 10736)
Deputy Attorney General
State of Nevada
Office of the Attorney General
555 E. Washington Ave., Ste. 3900
Las Vegas, Nevada 89101
(702) 486-3370 (phone)
(702) 486-3773 (fax)
Email: jmerrill@ag.nv.gov

*Attorneys for Interested Party,
Nevada Department of Corrections*

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

DIONDRE L. PARKER,

Plaintiff,

v.

M. PICKENS, *et al.*,

Defendants

Case No. 3:22-cv-00543-MMD-CLB

**ORDER GRANTING STAY
REQUESTED IN INTERESTED
PARTY'S STATUS REPORT
[ECF NO. 17]**

Interested Party, Nevada Department of Corrections (NDOC), by and through counsel Aaron D. Ford, Attorney General and Janet L. Merrill, Deputy Attorney General, hereby files its Status Report regarding the Order granting Motion for Modified Stay Pending Resolution of Criminal Proceedings issued by this Honorable Court on August 17, 2023. ECF No. 17.

On August 9, 2023, NDOC filed a Request for Judicial Notice. ECF No. 15. NDOC attached to its Request for Judicial Notice as Exhibit A-1, a copy of the Amended Criminal Complaint filed against offender Diondre L. Parker, #1129722 in the Justice Court of Ely Township No. 1, County of White Pine, State of Nevada, Case No. 22-CR-00148-7K. NDOC attached to its Request as Exhibit A-2, a copy of the Docket of Plaintiff's criminal case.

The Amended Criminal Complaint alleged three counts of Battery against Parker for striking and biting Correctional Emergency Response Team member Madeline Pickens

1 (“Parker Criminal Proceeding”). *See generally* ECF No. 15, at Exhibit A-1.

2 Also, on August 9, 2023, NDOC filed a Motion to modify the stay of the action. ECF
3 No. 16. In its Motion, NDOC explained that there is an undisputable overlap between the
4 criminal case against Diondrae Parker and the instant civil case. The two cases involve
5 the same date, **February 10, 2022**, and same location, Ely State Prison. Screening Order,
6 ECF No. 5, at 3:22 to 25; Amended Criminal Complaint, ECF No. 15, Exhibit A-1, at 1:13
7 to 17.

8 This case involves numerous Defendants and allegations of Eighth Amendment
9 excessive force, First Amendment retaliation and Fourth Amendment unreasonable
10 search. *See generally* Screening Order. Parker names Correctional Officer Madeline
11 Pickens in his §1983 civil action. ECF No. 6, at 5:5 to 13. In the criminal case, it is alleged
12 that Parker used force against Madeline Pickens. *See generally* Amended Criminal
13 Complaint, ECF No. 15, Exhibit A-1.

14 The Court granted NDOC’s Motion and as part of the Order required NDOC to file
15 a Status Report no later than 180 days after the issuance of the Order.

16 The Parker Criminal Proceeding is set for a Criminal Jury Trial starting on August
17 6, 2024. *See Exhibit A*, attached hereto.

18 THE STATE OF NEVADA,

19 Plaintiff,

20 vs.

21 DIONDRAE LAMAR PARKER,
22 #1129722,

23 Defendant.

**ORDER SETTING
CRIMINAL JURY TRIAL**

24 IT IS HEREBY ORDERED that a jury trial in the above-entitled matter is set to
25 commence on Tuesday, the 6th day of August, 2024, to continue through Wednesday, the
26 7th day of August, 2024, at the hour of 9:30 a.m., at the White Pine County Courthouse,
27 Ely, Nevada.

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1 NDOC submits this Status Report in compliance with the Court's Order. ECF No.
2 17.

3 Moreover, NDOC respectfully submits that a continued stay remains warranted
4 under the five factors set forth in *Keating v. Off. of Thrift Supervision*, 45 F.3d 322, 324–
5 25 (9th Cir. 1995). NDOC re-iterates the analysis set forth in its Motion. ECF No. 16, at
6 3:4 to 7:1.

7 In particular, Parker's Fifth Amendment rights may be implicated by parallel civil
8 and criminal proceedings. *Id.*, at 5:4 to 9. The public's interest in the integrity of the
9 criminal case is entitled to precedence over the civil litigant. *Id.*, at 6:22 to 7:1. And,
10 participation in an Early Mediation Conference and settlement in this civil matter may be
11 more productive when the Criminal Proceeding is complete. *Id.*

12 NDOC respectfully requests that the instant stay be continued until the completion
13 of the trial in the pending Criminal Proceeding.

14 DATED this 9th day of February 2024.

15 AARON D. FORD
16 Attorney General

17 By: /s/Janet L. Merrill
18 JANET L. MERRILL (Bar No. 10736)
19 Deputy Attorney General

20 *Attorneys for Interested Party,*
21 *Nevada Department of Corrections*

22 ORDER

23 The stay in this case is continued until September 1, 2024. The parties are
24 ordered to file a status report on or before that date.

25 **IT IS SO ORDERED.**


26 **Dated: February 12, 2024.**

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28 **UNITED STATES MAGISTRATE JUDGE**

CERTIFICATE OF SERVICE

I certify that I am an employee of the State of Nevada, Office of the Attorney General, and that on February 9, 2024, I electronically filed the foregoing, **INTERESTED PARTY'S STATUS REPORT REGARDING MODIFIED STAY [ECF NO. 17]**, via this Court's electronic filing system. Parties that are registered with this Court's electronic filing system will be served electronically.

Diondre Parker #1129722
c/o Law Librarian
Northern Nevada Correctional Center
P.O. Box 7000
Carson City, NV 89702
lawlibrarian@doc.nv.gov



An employee of the
Office of the Attorney General

EXHIBIT A

EXHIBIT A

Case No. CR-2303074

Dept No. 2

FILED

2024 JAN 23 P 2:33

WHITE PINE COUNTY CLERK

BY: AH DEPUTY

IN THE SEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF
NEVADA, IN AND FOR THE COUNTY OF WHITE PINE

THE STATE OF NEVADA,

Plaintiff,

vs.

ORDER APPOINTING COUNSEL

DIONDRAE LAMAR PARKER,
#1129722,

Defendant.

IT IS HEREBY ORDERED that the Nevada State Public Defender's Office, located at 1500 Avenue F, Ely, Nevada 89301 (775) 430-0386, is appointed to represent the above-named defendant, Diondrae Lamar Parker, in these proceedings.

DATED this 22nd day of January, 2024.


DISTRICT JUDGE

SEVENTH JUDICIAL DISTRICT COURT
GARY D. FAIRMAN
DISTRICT JUDGE
DEPARTMENT 2
WHITE PINE, LINCOLN AND EUREKA COUNTIES
STATE OF NEVADA



Case No. CR-2303074

Dept. No. 2

FILED

2024 JAN 23 P 2:33

JACQUELYNNE L. STEVENS
WHITE PINE COUNTY CLERK

BY: LH, DEPUTY

IN THE SEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF
NEVADA, IN AND FOR THE COUNTY OF WHITE PINE

THE STATE OF NEVADA,

Plaintiff,

vs.

DIONDRAE LAMAR PARKER,
#1129722,

Defendant.

**ORDER SETTING
CRIMINAL JURY TRIAL**

IT IS HEREBY ORDERED that a jury trial in the above-entitled matter is set to commence on Tuesday, the 6th day of August, 2024, to continue through Wednesday, the 7th day of August, 2024, at the hour of 9:30 a.m., at the White Pine County Courthouse, Ely, Nevada.

DATED this 22nd day of January, 2024.


DISTRICT JUDGE

SEVENTH JUDICIAL DISTRICT COURT
GARY D. FAIRMAN
DISTRICT JUDGE
DEPARTMENT 2
WHITE PINE, LINCOLN AND EUREKA COUNTIES
STATE OF NEVADA



Case No. CR-2303074

Dept No. 2

FILED
2024 JAN 23 P 2:34
JULIE H. HUNT
WHITE PINE COUNTY CLERK
BY: VH

IN THE SEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF
NEVADA, IN AND FOR THE COUNTY OF WHITE PINE

THE STATE OF NEVADA,

Plaintiff,

vs.

DIONDRAE LAMAR PARKER,
#1129722,

Defendant.

PRETRIAL ORDER
(Criminal Case)

IT IS HEREBY ORDERED that:

1. The above entitled case shall be tried before a jury as a first setting commencing on Tuesday, the 6th day of August, 2024, at 9:30 a.m., to continue through Wednesday, the 7th day of August, 2024.

3. All Pretrial Motions shall be filed and served on or before June 7, 2024. A courtesy copy of any motion or opposition shall be delivered or mailed to the Court.

4. All exhibits shall be marked by the Clerk prior to trial.

5. Counsel for the respective parties shall meet prior to trial to resolve as many evidentiary disputes as possible.

SEVENTH JUDICIAL DISTRICT COURT
GARY D. FAIRMAN
DISTRICT JUDGE
DEPARTMENT 2
WHITE PINE, LINCOLN AND EUREKA COUNTIES
STATE OF NEVADA



1 6. Should the parties negotiate a resolution of the case, a written memorandum
2 of the plea agreement shall be filed on or before July 31, 2024.

3 7. All proposed jury instructions shall be submitted to the Court no later than
4 4:00 p.m. on August 2, 2024.

5 DATED this 22nd day of January, 2024.

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9 DISTRICT JUDGE
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SEVENTH JUDICIAL DISTRICT COURT
GARY D. FAIRMAN
DISTRICT JUDGE
DEPARTMENT 2
WHITE PINE, LINCOLN AND EUREKA COUNTIES
STATE OF NEVADA



Case No. CR-2303074

Dept No. 2

FILED

2024 JAN 23 P 4:33

WHITE PINE COUNTY CLERK

BY: ltv DEPUTY

IN THE SEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF
NEVADA, IN AND FOR THE COUNTY OF WHITE PINE

THE STATE OF NEVADA,

Plaintiff,

vs.

DIONDRAE LAMAR PARKER,
#1129722,

Defendant.

TRANSPORTATION ORDER

**TO: NETHANJAH BREITENBACH, WARDEN
NNCC
P.O. BOX 7000
CARSON CITY, NV 89701**

**NEVADA DEPARTMENT OF CORRECTIONS
CENTRAL TRANSPORTATION DIVISION
P.O. BOX 7011
CARSON CITY, NV 89702**

YOU ARE HEREBY ORDERED to transport DIONDRAE LAMAR PARKER, Back
No. 1129722, who is currently in custody at Northern Nevada Correctional Center, to this
Court for a jury trial set to commence on Tuesday, the 6th day of August, 2024, to continue
through Wednesday the 7th day of August, 2024, at 9:30 a.m. at the White Pine County



Courthouse in Ely, Nevada. Said Defendant should arrive at the Courthouse at 8:30 a.m.
unless otherwise instructed by the court.

DATED this 23rd day of January, 2024.



DISTRICT JUDGE

SEVENTH JUDICIAL DISTRICT COURT
GARY D. FAIRMAN
DISTRICT JUDGE
DEPARTMENT 2
WHITE PINE, LINCOLN AND EUREKA COUNTIES
STATE OF NEVADA

